IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 26.10.2006

New India Assurance Company Ltd.

...Appellant

versus

Gurdev Kaur and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr.Justice Mahesh Grover.

Present: Mr.R.N.Singal, Advocate,
for the appellant.

UMA NATH SINGH, J. (ORAL)

In this appeal by the Insurance Company against an award dated 17.7.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Faridkot, in MAC Case No.52 of 20.11.2004 awarding a sum of Rs.2,70,000/- with 6% interest per annum, learned counsel for the appellant assailed the award on two counts, namely, that the rash and negligent driving was not proved and secondly, on the quantum of compensation.

The accident took place on 16.10.2004, whereas the FIR was lodged on 23.10.2004, a day before the death of the deceased in the hospital. It appears from the evidence on record so also the finding of the Tribunal that during the interregnum period, the deceased had sought treatment in various hospitals, therefore, the delay was well explained. The only ground that there was a delay in lodgment of the FIR, of course, a day

before the death of the deceased, is not a valid ground to reject the case of the claimants holding that the offending vehicle was not involved in the accident. Besides, the hospital records also disclose that it was a case of accidental death. As regards the quantum of compensation, in para 15 of the award, the Tribunal has held that the deceased was aged 50 years on the date of death, and that finding has been arrived at after considering the obtaining circumstances and cross evidence led by the parties. Under the circumstances, the Tribunal has applied the multiplier of 13, which does not appear to be on higher side, particularly for the reason that the deceased was survived by wife and five major children. Learned counsel also submitted that there was an error in calculation inasmuch as the dependency should have been assessed at Rs.2,49,000/-. According to him, there is a gap of Rs.10,000/-, which can also be adjusted towards loss of estate, as no amount has been awarded by the Tribunal on that count. In the obtaining circumstances, when the widow was aged only 48 years, we do not find that the compensation amount is on higher side.

Hence, the FAO, being devoid of merits, is dismissed in limine.

(UMA NATH SINGH)
JUDGE

October 26, 2006 **(MAHESH GROVER)**
pk **JUDGE**